

BANKING DIVISION[187]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 17A.3 and 535B.14, the Banking Division of the Commerce Department hereby adopts amendments to Chapter 18, "Mortgage Bankers and Mortgage Brokers," Iowa Administrative Code.

The amendments update existing rules to conform to recent legislative changes and in response to a review for necessary corrections.

Notice of Intended Action was published in the Iowa Administrative Bulletin on September 24, 2008, as **ARC 7175B**. The Division received informal oral feedback on the rules in the form of in-person communications.

Due in part to the feedback received and because more information is now available about plans to implement the federal S.A.F.E. Mortgage Licensing Act and about the availability of an NMLS&R-approved test and pre-education requirements, changes have been made to the amendments that were published under Notice of Intended Action. The adopted amendments have been revised in order to provide testing and pre-education opportunities before they become available nationwide through the NMLS&R. The revised amendments are a logical outgrowth of the amendments published under Notice and the public comments received in response to them. The following changes have been made:

The introductory paragraph of subrule 18.4(2) was amended to include education approved by the administrator as eligible pre-education and to include a time frame in which the pre-education must occur.

Subrule 18.4(3) was amended to address the fact that an NMLS&R-approved test will not be available until approximately August of 2009. The introductory paragraph of subrule 18.4(2) and subrule 18.4(3) now read as follows:

"18.4(2) Prior to applying for an individual registration, an applicant must complete, within the 30 months immediately preceding the date of application, at least 20 hours of education approved by the administrator or the NMLS&R, which shall include at least:

"18.4(3) Prior to applying for an individual registration, an applicant must pass a written test designated by the administrator. Initially, the administrator shall negotiate an agreement with a testing service relating to examination development and administration. Once a nationwide test is available, the qualified written test (developed by the NMLS&R and administered by a provider approved by the NMLS&R, in accordance with the standards established under Public Law 110-289, Title V, the S.A.F.E. Mortgage Licensing Act) shall become the designated test. An applicant must achieve a test score of not less than 75 percent correct answers to questions to pass the designated test. An applicant shall register and pay examination fees directly to the testing service. An applicant is also advised that if the applicant takes and passes an examination designated by the administrator before the qualified written test developed by the NMLS&R becomes available, the applicant may be required to take and pass the NMLS&R test at some point in the future to become licensed under the S.A.F.E. Mortgage Licensing Act."

The Superintendent of Banking adopted these amendments on October 29, 2008.

These amendments will become effective on December 24, 2008.

These amendments are intended to implement Iowa Code sections 17A.3 and 535B.14 and 2008 Iowa Acts, House File 2556 and Senate File 2428.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [18.1 to 18.5, 18.6(4), 18.8, 18.10(1), 18.23] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice as **ARC 7175B**, IAB 9/24/08.

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[For replacement pages for IAC, see IAC Supplement 11/19/08.]